

APPEAL NO. 030779  
FILED MAY 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 18, 2003. The hearing officer resolved the disputed issue by deciding that the Independent Review Organization's (IRO) decision is supported by a preponderance of the evidence. The appellant (carrier) appealed, and the respondent (claimant) responded.

DECISION

Affirmed.

This case involves a dispute over the medical necessity of proposed spinal surgery. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.308 (Rule 133.308) pertains to medical dispute resolution by IROs. See Texas Workers' Compensation Commission Appeal No. 021958-s, decided September 16, 2002, regarding application of a preponderance of the evidence standard. The claimant's treating doctor has recommended that the claimant undergo a lumbar interbody fusion at L4-5. The IRO decided that the proposed interbody fusion is medically necessary to treat the claimant's condition. A carrier peer review doctor and a required medical examination doctor opined that the claimant is not a surgical candidate. Reports of diagnostic tests were in evidence. The hearing officer determined that the IRO decision is supported by a preponderance of the evidence. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750  
AUSTIN, TEXAS 78701.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Margaret L. Turner  
Appeals Judge